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SERVICE DATE – JULY 3, 2017

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 551 (Sub-No. 1X)

KNOX AND KANE RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN
CLARION, FOREST, ELK AND McKEAN COUNTIES, PA.

Decided: July 3, 2017

Knox and Kane Railroad Company (Knox and Kane) filed a notice of exemption under 49 CFR pt. 1152 subpart F—Exempt Abandonments to abandon its entire line of railroad between milepost 95.3 at North Clarion Junction, Pa., and milepost 165.2 at Mt. Jewett, Pa., a distance of 69.9 miles, in Clarion, Forest, Elk, and McKean Counties, Pa. Notice of the exemption was served and published in the Federal Register on October 23, 2009 (74 Fed. Reg. 54,873).

By decision and notice of interim trail use or abandonment (NITU) served on November 23, 2009, the proceeding was reopened and a 180-day period (until May 23, 2010) was authorized for McKean County Planning Commission, in conjunction with Clarion, Forest, and Elk Counties (collectively, the Counties), to negotiate an interim trail use/rail banking agreement under the National Trails System Act, 16 U.S.C. § 1247(d), with Knox and Kane for use of the right-of-way as a recreational trail. That decision also imposed a public use condition (which expired on May 23, 2010) and five environmental conditions.

On November 23, 2009, The Kovalchick Family Trust (KFT) filed a request for the issuance of a NITU for the line. Knox and Kane indicated its willingness to negotiate with KFT for interim trail use, and another NITU was served on December 10, 2009. On April 16, 2010, Knox and Kane notified the Board that it had reached a trail use/rail banking agreement with KFT for the entire line.

By letter filed on May 30, 2017, the parties indicate that, on May 3, 2017, KFT and Headwaters Charitable Trust (HCT) entered into an Agreement of Sale whereby the railbanked right-of-way is to be conveyed to HCT for interim trail use subject to all the terms and conditions imposed in the December 10, 2009 NITU. KFT and HCT (collectively, petitioners) jointly request that the Board, pursuant to 49 C.F.R. § 1152.29(f), reopen the proceeding, vacate the existing NITU, and issue a replacement NITU substituting HCT as the new interim trail sponsor in place of KFT.

Petitioners have submitted a copy of the extant NITU and a statement by HCT of its willingness to assume full responsibility for management of the right-of-way, for any legal liability arising out of the transfer or use of the right-of-way, and for the payment of any and all

taxes that may be levied or assessed against the right-of-way, as required by 49 C.F.R. § 1152.29. HCT also acknowledges that the use of the right-of-way for trail purposes is subject to HCT's continuing to meet the responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

Petitioners' submission meets the requirements of 49 C.F.R. § 1152.29(f). Accordingly, petitioners' request will be granted and a replacement NITU will be issued.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proceeding is reopened.
2. The NITU served on December 10, 2009, is vacated.
3. A replacement NITU applicable to HCT as interim trail sponsor is issued, effective on the service date of this decision and notice.
4. Interim trail use/rail banking is subject to the future restoration of rail service and to HCT's continuing to meet the financial obligations for the right-of-way.
5. If the trail sponsor intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
6. This decision and notice is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.